

REMARKS

Applicant respectfully traverses the § 103(a) rejection of claims 19, 22, 23, and 26 over Flom '349 in view of L'Esperance '466.

The present invention, as set forth, e.g., in claim 19, relates to an ophthalmic surgery system comprising an ophthalmic measurement apparatus and a refractive surgery apparatus. The ophthalmic measurement apparatus comprises optometry means for examining or measuring a patient's eye to obtain measurement data on refractive power or a corneal shape of the eye measuring for refractive correction, first photographing means for photographing the eye, first identification code acquiring means for extracting a characteristic inherently unique to the eye by processing a first image of the eye photographed by the first photographing means and obtaining a first identification code based on the extracted characteristic, and storage means for storing the obtained measurement data or surgical data. The refractive surgery apparatus comprises surgery means for performing surgery for the refractive correction of the eye based on the surgical data, second photographing means for photographing the eye, second identification code acquiring means for extracting the characteristic by processing a second image of the eye photographed by the second photographing means and obtaining a second identification code based on the extracted characteristic, comparison means for comparing the first identification code and the second identification code to judge whether the two identification codes match, and permission means for permitting the surgery to be performed, the surgical data to be generated based on the obtained measurement data or surgical data to be used when the comparison means judges that the first and second identification codes match.

In contrast, Flom discloses a method and system for comparing an image of an iris having a predetermined pupil size adjusted through irradiation of light, with a previously-stored image of an iris having the same pupil size, and judging whether or not both irises are identical. Flom discloses a technique for judging identity of the photographed iris image and stored iris image; this technique is used to identify a person in order to permit or forbid the person from performing an action. Flom does not disclose or suggest how to associate eye measurement data with the iris image, nor does Flom disclose or suggest any surgical purpose for using the identity judgment. Flom further fails to disclose or suggest a refractive eye surgery apparatus.

In the present invention, in order to judge whether measurement data belongs to a certain patient, the measurement data is transmitted in association with the first identification code, obtained based on the iris image photographed at the time of measurement, and when it is judged that the measurement data belongs to the patient through comparison of the first and second identification codes, the data is used.

L'Esperance discloses simulation of refractive correction based on topography data of a cornea of an eye to be examined, corneal thickness data, and refractive power data. The topography data includes a corneal shape for drawing a pre-operative corneal shape in CAD/CAM fashion, as shown in Figs. 2-6. L'Esperance neither discloses nor suggests transmitting data such as topography data of the cornea in association with a first identification code obtained based on an iris image. Moreover, L'Esperance does not teach or suggest storing measurement data in a specific patient's file or using the data by inputting it into a surgery apparatus when it is judged that the

data belongs to the intended patient through comparison of first and second identification codes.

For the above reasons, neither Flom nor L'Esperance, viewed alone or in any possible combination, disclose or suggest all of the features of the present invention as set forth in the claims.

Moreover, there is no suggestion or motivation in the references, nor has the Examiner suggested any motivation to persons of ordinary skill in the art, to combine Flom and L'Esperance. Even if these references were combined, their structures and functions would have to be altered in order to have the same structural and functional features of the claimed invention. Since no suggestion or motivation to make such alterations exists, this is not even a *prima facie* case of obviousness.

Applicant respectfully requests entry of this Amendment under Rule 116 in order to place this case in condition for allowance or in better form for appeal. This amendment was not presented earlier, because the Examiner rejected these claims over the combination of Flom and L'Esperance for the first time in the Final Office Action. A Notice of Appeal is being filed concurrently herewith, in order to keep this case alive should the Examiner refuse to enter this Amendment.

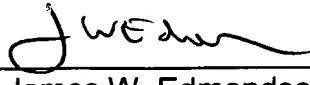
Following entry of this Amendment Under Rule 116, Applicant respectfully requests reconsideration and allowance of all of the pending claims.

Please grant any additional extensions of time required to enter this response
and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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